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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,372	03/03/2004	David N. Teed	4989-102 US	4238
<div>7590      06/20/2007 Diane Dunn McKay, Esq. Mathews, Collins, Shepherd &amp; McKay, P.A. 100 Thanet Circle, Suite 306 Princeton, NJ 08540</div>			<div>EXAMINER BARTOSIK, ANTHONY N</div>	
			<div>ART UNIT 3609</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 06/20/2007</div>	<div>DELIVERY MODE PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/792,372

**Applicant(s)**

TEED, DAVID N.

**Examiner**

Anthony N. Bartosik

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on July 28, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/20/2004, 7/3/2006
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Leslie (US 3,426, 987).

3. In Re claim 1, Figures 1-4 of Leslie disclose a gutter attachment section (10) adapted to contact a front section of said gutter; a building attachment section (20) adapted to contact a rear section of said gutter; coupling means (19) for coupling said gutter attachment section to said building attachment to allow said gutter attachment section to be expanded from said building attachment section to provide an expanded length of said gutter bracket.

4. In Re claim 2, Figures 1-4 of Leslie discloses a coupling means that provides sliding movement between said gutter attachment section and said building attachment section.

5. In Re claim 3, Figures 1-4 of Leslie discloses a gutter attachment section that slides within a track of said building attachment section.

6. In Re claim 4, Figures 1-4 of Leslie discloses a building attachment section slides within a track of said gutter attachment section.

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7. In Re claim 5, Figures 1-4 of Leslie discloses a coupling means that comprises a pivot for pivotally attaching said gutter attachment section to said building attachment section. Examiner notes that if the screw was loosen to the point that the building attachment section (20) feel a distance greater than that of the indent as shown in Figure 4, the gutter attachment section (10) could then be pivoted.

8. In Re claim 6, Figures 1-4 of Leslie discloses a mounting means (15) that is adapted for attaching said building attachment section to a surface of a building.

9. In Re claim 7, Figures 1-4 of Leslie discloses a gutter attachment section that comprises a protrusion (12), said protrusion adapted to contact said gutter.

10. In Re claim 12, Figures 1-4 of Leslie discloses inserting an expandable gutter bracket into said gutter, said expandable gutter bracket comprising: a gutter attachment section (10) adapted to contact a front section of a building attachment section (20); coupling means (19) for coupling said gutter attachment section (10) to said building attachment section (20) expanding said gutter attachment section (10) away from said building attachment section (20) such that said gutter attachment section (10) contacts a front section of said gutter and said building attachment section (20) contacts a rear section of said gutter; and mounting said building attachment section (20) to said building surface.

11. In Re claim 13, Figures 1-4 of Leslie discloses a coupling means that provides sliding movement between said gutter attachment section (20) and said building attachment section (10).

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12. In Re claim 14, Figures 1-4 of Leslie discloses a gutter attachment section that slides within a track of said building attachment section.

13. In Re claim 15, Figures 1-4 of Leslie disclose a building attachment section (20) that slides within a track of said gutter attachment section (10).

14. In Re claim 16, Figures 1-4 of Leslie discloses a coupling means that comprises a pivot for pivotally attaching said gutter attachment section to said building attachment section. Examiner notes that if the screw was loosen to the point that the building attachment section (20) feel a distance greater than that of the indent as shown in Figure 4, the gutter attachment section (10) could then be pivoted.

15. In Re claim 17, Figures 1-4 of Leslie discloses a gutter attachment section (10) that comprises a protrusion (12), said protrusion (12) adapted to contact said gutter.

### ***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 9-11 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leslie (US 3,426, 987) in view of Baker (US 2002/0073631 A1).

18. In Re claim 8, Figures 1-4 of Leslie as discussed above teach the limitations of claim 1, from which 8 depends, however, Leslie fails to teach a support accessory.

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Additionally, Figures 2 and 5 of Baker teach a support accessory (25) associated with said gutter attachment section, said support accessory (25) adapted to support a gutter cover (15). As taught by Baker, it would have been obvious to one skilled in the art at the time of the invention to combine the expandable gutter bracket of Leslie with the support accessory from the combined gutter protection system of Baker in order to mount a gutter cover.

19. In Re claim 9, Figures 1-8 of Baker teach a support accessory (25) comprising an upward extension extending from said gutter attachment section and one end including one or more arms (30,31) adapted to support the gutter cover (15).

20. In Re claim 10, Figure 5 and Page 3, paragraph 35 of Baker teaches a support accessory that is integral with said gutter attachment section. Figure 5 of Baker teaches attaching the support accessory (25) by way of a fastener being placed at (24) so as to make the bracket and support accessory integral.

21. In Re claim 11, Figures 2 and 5 of Baker teach a coupling means (34) for coupling said upward extension to said gutter attachment section.

22. In Re claim 18, Figures 1-4 of Leslie teaches a gutter attachment section comprises a protrusion, said protrusion adapted to contact said gutter but fails to teach a support accessory. Figures 1-8 and Page 3, paragraph 35 of Baker teaches a support accessory (25) associated with said gutter attachment section, said support accessory (25) adapted to support a gutter cover (15). Concerning claim 18, the combination renders the claimed method steps obvious since such would be logical manner of using the combination.

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**23.** In Re claim 19, Figures 1-8 of Baker teaches said support accessory comprises an upward extension extending from said gutter attachment section and one end including one or more arms (30, 31) adapted to support the gutter cover (15).

Concerning claim 19, the combination renders the claimed method steps obvious since such would be logical manner of using the combination.

### ***Conclusion***

The prior art made of record and not relied upon is considered to be considered to be pertinent to applicant's disclosure. Trostle et al. (US 3,752, 428) and Ward (US 4,116,008). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony N. Bartosik whose telephone number is 2723600. The examiner can normally be reached on M-F 7:30-5:00; Alter Fri Off E.D.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Batson Victor can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson  
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AB  
5/2007